

Catalina J. Sugayan

(312) 849-1974

catalina.sugayan@sedgwicklaw.com

Peter J. Horst

(312) 849-1969

peter.horst@sedgwicklaw.com

STATUTES OF LIMITATIONS FOR CIVIL ACTIONS BASED ON CHILDHOOD SEXUAL ABUSE¹

Childhood sexual abuse claims against perpetrators and the organizations they are affiliated with are often brought long after the alleged abuse occurred.

When claims of childhood sexual abuse began to emerge in the 1980's, the applicable statutes of limitations were the same as for tort claims—generally two to three years after the abuse, with tolling until the victim reached the age of majority and for severe mental incapacity. Subsequently, case law and legislative developments lengthened the limitations period and delayed accrual of the limitations period until discovery (either discovery of the abuse or discovery of the causal connection between the abuse and the alleged injuries). Many of the legislative enactments are not retroactive, so it should not be assumed that the current law would apply, particularly where the alleged abuse occurred several years prior to the assertion of the claim. States such as California and Illinois have frequently amended the limitations period applicable to childhood sexual abuse, which makes determining the applicable limitations period more difficult.

Several States, including California, Delaware, Georgia, Hawaii, and Minnesota, enacted “sunshine” or “windows” legislation that allowed claims that were barred by a previous limitations period to be brought during a specific period following enactment of the legislation. In some jurisdictions, the limitations periods differ as respects claims against perpetrators versus claims against other potentially liable parties, such as employers. In addition, attorneys for abuse victims have, with limited success, sought to assert equitable estoppel and fraudulent concealment theories in an attempt to toll the limitations periods.

This Compilation sets forth the current law and, where applicable, the legislative history, other case law and legislation, and pending legislation.

¹ This Compilation is intended to provide an overview as of January, 2017 and is not intended to provide legal advice. The reader is encouraged to conduct a complete reading and analysis of the cited legislation and case law and to seek legal advice before making a significant decision on any particular matter. Nothing contained herein should be construed as a position or opinion by the authors with respect to the law or any specific claim.

ALABAMA

Summary of Current Law:	Alabama has not enacted a statute of limitations specific to childhood sexual abuse. Instead, the limitations period for personal injury actions applies, which is the later of: (a) 2 years from age 19; or (b) 2 years from the date of injury. Ala. Code § 6-2-38(1); Ala. Code § 6-2-8(a) (tolling limitations period for minors). An action alleging assault and battery must be brought within 6 years after the accrual of the cause of action. Ala. Code § 6-2-34(1).
Legislative History:	Ala. Code § 6-2-38 was enacted in 1975 and is not retroactive.
Other:	The Alabama legislature has not extended application of the discovery rule to claims of childhood sexual abuse. <i>Travis v. Ziter</i> , 681 So. 2d 1348, 1354-1355 (Ala. 1996). In addition, a claim of repressed memories does not toll the limitations period because repressed memory does not fit the definition of “insanity.” <i>Id.</i>
Pending Legislation:	None.

ALASKA

Summary of Current Law:	<p>A civil action based on felony sexual abuse of a minor, felony sexual assault or unlawful exploitation of a minor may be commenced at any time. Alaska Stat. § 09.10.065(a).</p> <p>The limitations period for a civil action based on misdemeanor sexual abuse of a minor is the later of: (a) 3 years from age 18; or (b) 3 years from when the victim discovers, or reasonably should have discovered through the use of reasonable diligence, the act that caused the injury or condition. Alaska Stat. § 09.10.065(b)(1); Alaska Stat. § 09.10.140(b) (setting forth discovery rule provisions); Alaska Stat. § 09.10.140(a) (tolling limitations period for minors).</p> <p>Alaska Stat. § 09.10.065 became effective on June 6, 2003 and is retroactive to October 1, 2001 for actions that were not time-barred on October 1, 2001. <i>Catholic Bishop of Northern Alaska v. Does 1-6</i>, 141 P.3d 719, 724-25 (Alaska 2006) (applying Alaska Stat. §09.10.06 to all sex abuse related claims, including those against the employer).</p>
Legislative History:	Prior to 2001, an action based on childhood sexual abuse was subject to the 2-year limitations period for personal injury actions. Alaska Stat. § 09.10.070.
Other:	A claim for repressed memory syndrome could not be used to invoke the discovery rule and toll the limitations period absent expert evidence. <i>Maness v. Gordon</i> , 325 P. 3d 522 (Alaska 2014).
Pending Legislation:	None

ARIZONA

Summary of Current Law:	Arizona has not enacted a statute of limitations specific to childhood sexual abuse. Instead, the limitations period for personal injury actions applies, which is the later of: (a) 2 years from age 18; or (b) 2 years from when the victim knows, or with reasonable diligence should know, that the injury is attributable to a particular person's conduct. Ariz. Rev. Stat. Ann. § 12-542; Ariz. Rev. Stat. Ann. § 12-502 (tolling limitations period for minors); <i>Doe v. Roe</i> , 955 P.2d 951, 960 (Ariz. 1998).
Legislative History:	Ariz. Rev. Stat. Ann. § 12-542 was enacted in 1971 and is not retroactive.
Other:	Arizona tolls the limitations period if a person is of "unsound mind." Ariz. Rev. Stat. Ann. § 12-502.
Pending Legislation:	None.

ARKANSAS

Summary of Current Law:	The limitations period is the later of: (a) 3 years from age 18; or (b) 3 years from the victim's discovery of the effect of the injury attributable to the childhood sexual abuse. Ark. Code Ann. § 16-56-130. Ark. Code Ann. § 16-56-130 was approved on August 13, 1993 and is not retroactive. <i>Miller v. Subiaco Academy</i> 386 F. Supp. 2d 1025, 1029 (W.D. Ark. 2005) (Under Arkansas law, former student's cause of action against private academy, for alleged sexual abuse when the former student was a minor, was time-barred in 1983 under applicable statute of limitations and was not revived by statute enacted in 1993). Arkansas is a "vested right" jurisdiction and the legislature may not expand a limitations period that would revive a cause of action already barred by a prior limitations period. <i>Branch v. Carter</i> , 933 S.W.2d 806, 808 (Ark. 1996).
Legislative History:	Prior to 1993, an action based on childhood sexual abuse was subject to the 3-year limitations period for personal injury actions which ran from the age of 21. Ark. Code Ann. § 16-56-105(3).
Other:	<i>Barre v. Hoffman</i> , 2009 Ark. 373 (2009) (Statute of limitations for plaintiff's sexual abuse claims was not tolled due to fraudulent concealment nor due to repressed memory syndrome).
Pending Legislation:	None.

CALIFORNIA

Summary of Current Law: The limitations period is the later of: (a) 8 years from age 18 or (b) 3 years from the date the victim discovers or reasonably should have discovered that psychological injury or illness occurring after age 18 was caused by the childhood sexual abuse. Cal. Civ. Proc. Code § 340.1(a).

A claim based on an intentional act or negligence against a third party must be brought by the victim's 26th birthday unless the third party defendant "knew or had reason to know, or was otherwise on notice, of any unlawful sexual conduct by an employee . . . or agent, and failed to take reasonable steps, and to implement reasonable safeguards, to avoid acts of unlawful sexual conduct in the future by that person", in which case the action must be commenced within 3 years of discovering the injury was caused by the abuse." Cal. Civ. Proc. Code § 340.1(b)(1) and (2). An action may not be brought by an individual over the age of 26 if barred by a prior limitations period, even if the psychological injury was discovered after the effective date of the statute. *Quarry v. Doe*, 272 P.3d 977, 979 (Cal. 2012). The extended limitations period (3 years from discovery) does not apply to vicarious liability claims. There must be some wrongful or negligent action or inaction that was the cause of the childhood sexual abuse. *Quarry v. Doe I*, No. A12-0048, 2012 WL 3538902, *3 (Cal. Ct. App. Aug. 17, 2012)

A certificate of merit is required for actions brought by individuals over the age of 26. Cal. Civ. Proc. Code § 340.1(g) and (h).

The statute revived for a period of 1 year, commencing January 1, 2003, any claims permitted to be filed "that would otherwise be barred as of January 1, 2003, solely because the applicable statute of limitations has or had expired." Cal. Civ. Proc. Code § 340.1(c). This did not revive actions that were previously dismissed based by a court on the basis of the statute of limitations. *Perez v. Richard Roe*, 146 Cal. App. 4th 171, 189 (Cal. Ct. App. 2006).

The current version of Cal. Civ. Proc. Code § 340.1 became effective January 1, 2003.

Legislative History: Prior to 1987, § 340.1 required an action to be brought within 1 year from the act of childhood abuse or 1 year from age 18. The common law discovery rule also applied.

From 1987 to 1990, § 340.1 required an action to be brought within the later of: (a) 3 years from the act of childhood abuse or (b) 3 years from age 18. This applied only to actions for childhood sexual abuse against family members. The common law discovery rule also applied.

In 1990, § 340.1 was amended to extend the limitations period to the later of:(a) 8 years from age 18; or (b) 3 years from discovery that the injury was caused by the childhood sexual abuse. The amendment also expanded the statute to apply to all perpetrators, not just family members. The common law discovery rule did not apply to actions commencing after the effective date of the statute.

Legislative History (cont):	<p>In 1994, § 340.1 was amended to make the 1990 version of the statute retroactive.</p> <p>In 1998, § 340.1 was amended to make the 1990 version applicable to perpetrators and non-perpetrators. Claims against non-perpetrators had to be brought by age 26.</p> <p>In 1999, § 340.1 was amended to make the 1990 version of the statute retroactive.</p> <p>The legislative history for California was obtained from <i>Quarry v. Doe 1</i>, 89 Cal. Rptr. 3d 640, 645 (Cal. Ct. App. 2009).</p>
Other:	<p>The common law discovery rule did not apply to actions commencing after January 1, 1991 as the discovery language had been added to § 340.1 in the 1990 version of the statute. <i>Quarry v. Doe 1</i>, 272 P.3d 977, 987 (Cal. 2012).</p> <p>Plaintiffs have attempted to creatively plead against third party defendants to get around the age 26 limitation set forth in § 340.1. <i>See e.g., Doe v. Doe 1</i>, 208 Cal. App. 4th 1185, 1193-1195 (Cal. App. Ct. 2012) (finding claim not time-barred because it was tolled pursuant to Insurance Section 11583).</p> <p>The 1998 amendment of § 340.1 that expanded the limitations period for actions against third party defendants until three years from discovery but no later than the victim's 26th birthday, imposed an absolute bar against instituting a lawsuit against third party defendants once the plaintiff reached the age of 26. <i>Boy Scouts of America National Foundation v. Superior Court</i>, 141 Cal. Rptr. 3d 819, 828 (Cal. Ct. App. 2012).</p> <p>§ 340.1 extends the limitations period for individuals over the age 26 only if such action is commenced against a "person." An organization like the Boy Scouts is not a "person." <i>Boy Scouts of America National Foundation v. Superior Court</i>, 141 Cal. Rptr. 3d 819, 830-831 (Cal. Ct. App. 2012).</p>
Pending Legislation:	<p>SB 924, introduced on January 29, 2014, would have increased the maximum age to bring a civil action from 26 to 40. The bill would also have removed the objective standard language ("discovers or reasonably should have discovered") and allowed an action within 5 years (previously 3 years) from the date the fact of the psychological injury and its causal connection to the childhood sexual abuse is first communicated to the victim. The bill would have applied to both private and public entities and would have had prospective effect. Governor Brown vetoed the bill on September 30, 2014. It does not appear that any similar bills have been proposed since that time.</p>

COLORADO

Summary of Current Law: The limitations period is the later of: (a) 6 years from age 18; or (b) 6 years from when the victim knows or should have known, through the exercise of reasonable diligence that the injuries were caused by the childhood sexual abuse. Colo. Rev. Stat. Ann. § 13-80-103.7.

The extension of the limitations period does not apply to actions based on vicarious liability. Colo. Rev. Stat. Ann. § 13-80-103.7(1).

An action brought 15 years or more after an individual attains age 18, may only seek damages for medical and counseling treatment and expenses, plus costs and attorney fees. Colo. Rev. Stat. Ann. § 13-80-103.7(3.5)(c).

The statute tolls the limitations period if the victim is under a “disability”. A person is under a “disability” if that person is in a "special relationship" with the perpetrator, which includes minister-parishioner relationships. Colo. Rev. Stat. Ann. § 13-80-103.7(3.5)(a).

Colo. Rev. Stat. Ann. § 13-80-103.7 became effective on July 1, 1990 and applies to those claims not time-barred as of July 1, 1990.

Legislative History: Prior to 1990, an action based on childhood sexual abuse was subject to the 2-year limitations period for personal injury actions. Colo. Rev. Stat. Ann. § 13-80-102(1)(a).

Other: The limitations period set forth in Colo. Rev. Stat. Ann. § 13-80-103.7 is applicable to perpetrators only. *Sandoval v. Archdiocese of Denver*, 8 P.3d 598, 604 (Colo. Ct. App. 2000). The 2-year limitations period for personal injury actions applies to non-perpetrators. *Id.* at 603-604.

§ 13-80-103.7 does not determine when an action accrues, instead a court will look to § 13-80-108, which is the general statute governing the accrual of actions. *Sailsbery v. Parks*, 983 P.2d 137, 139 (Colo. Ct. App. 1999).

Pending Legislation: None.

CONNECTICUT

Summary of Current Law: The limitations period is 30 years from age 18. Conn. Gen. Stat. Ann. § 52-577d. The limitations period applies to actions against both perpetrators and negligent parties. *Doe v. Boy Scouts of America Corp.*, 147 A.3d 104 (Conn. 2016) (jury verdict against Boy Scouts for negligence arising out of sexual abuse by scoutmaster in 1970's reversed and remanded where defense correctly argued that it could not be held liable for negligence unless the plaintiff proved that the defendant's conduct created or increased the risk that the plaintiff would be harmed and that the 30-year statute of limitations applies to negligence actions).

The current version of Conn. Gen. Stat. Ann. § 52-577d became effective on May 23, 2002 and is retroactive.

Revival of otherwise time-barred claims was rational legislative response to the exceptional circumstances and potential for injustice faced by adults who fell victim to sexual abuse as a child. *Doe. v. Hartford Roman Catholic Diocesan Corp.*, 119 A.3d 462 (Conn. 2015).

Legislative History: From June 20, 1991 to May 23, 2002, § 52-577d required an action to be brought within 17 years of age 18 and was retroactive. *Roberts v. Caton*, 224 Conn. 483, 493-494 (Conn. 1993).

From June 9, 1986 to June 20, 1991, § 52-577d required an action to be brought within 2 years of age 18 and no action could be brought more than 7 years from the date of the abuse.

Prior to June 9, 1986, an action based on childhood sexual abuse was subject to the 3-year limitations period for personal injury actions. Conn. Gen. Stat. Ann. § 52-584.

Other: §52-577d applies to claims against perpetrators and non-perpetrators. *Doe v. Indian Mountain School, Inc.*, 921 F. Supp. 82, 83 (D. Conn. 1995).

Fraudulent concealment may toll the limitations period. *Martinelli v. Bridgeport Roman Catholic Diocesan Corp.*, 196 F.3d 409, 419 (2d Cir. 1999).

Pending Legislation: None.

DELAWARE

Summary of Current Law:	<p>An action based on childhood sexual abuse may be commenced at any time. Del. Code Ann. tit. 10, § 8145(a) (“Child Victims Act”). This applies to actions against perpetrators and to actions for gross negligence against the perpetrator’s employer, where the employer owed a duty of care to the victim. Del. Code Ann. tit. 10, § 8145(b).</p> <p>The statute revived time-barred claims for the 2-year period from July 9, 2007 through July 9, 2009. Del. Code Ann. tit. 10, § 8145(b).</p> <p><i>Sheehan v. Oblates</i>, 15 A. 3d 1247 (Del. 2011) (Child Victims Act did not violate due process, since no fundamental vested right existed in the expiration of the statute of limitations on claims arising from sexual abuse).</p>
Legislative History:	<p>Prior to July 9, 2007, an action based on childhood sexual abuse was subject to the 2-year limitations period for personal injury actions. Del. Code Ann. tit. 10, § 8119.</p>
Other:	<p>Not Applicable.</p>
Pending Legislation:	<p>None.</p>

DISTRICT OF COLUMBIA (WASHINGTON DC)

Summary of Current Law:	<p>The limitations period is the later of: (a) 7 years from age 18; or (b) 3 years from the date the victim knew, or reasonably should have known, of any act constituting childhood sexual abuse. D.C. Code Ann. § 12-301(11).</p> <p>D.C. Code Ann. § 12-301 became effective on March 25, 2009 and is not retroactive. DC LEGIS 17-368 (2008).</p>
Legislative History:	<p>Prior to 2009, an action based on childhood sexual abuse was subject to the 3-year limitations period for personal injury actions. D.C. Code Ann. § 12-301(8). Also, the discovery rule applied to claims involving repressed memories. <i>Farris v. Compton</i>, 652 A.2d 49, 54 (D.C. 1994).</p>
Other:	<p>Not Applicable.</p>
Pending Legislation:	<p>B21-0131 was introduced on March 17, 2015 and referred to the Committee on the Judiciary. On March 27, 2015, a Notice of Intent to Act was published in the District of Columbia Register. Current information suggests that the bill died in chambers. The bill would have removed the statute of limitations for damage claims arising out of childhood sexual abuse. It would also have revived claims that were previously time-barred against any person or entity that perpetrated the abuse or was a cause of damages related to the abuse.</p>

FLORIDA

Summary of Current Law: The limitations period is the later of: (a) 7 years from age 18; (b) 4 years after the injured person leaves the dependency of the abuser; or (c) 4 years from discovery of both the injury and the causal relationship between the injury and the childhood sexual abuse. Fla. Stat. Ann. § 95.11(7). In addition to Section 95.11(7)(c)'s statutory discovery provision, Florida courts recognize a common-law delayed discovery doctrine, which “generally provides that a cause of action does not accrue until the plaintiff either knows or reasonably should know of the tortious act giving rise to the cause of action.” *Hearndon v. Graham*, 767 So. 2d 1179 (Fla. 2000) (extending the use of the discovery doctrine to the narrow context of cases involving allegations of traumatic amnesia as a result of childhood sexual abuse).

Claims sounding in negligence or vicarious liability directed against institutional defendants are subject to a four-year statute of limitations, and the *Hearndon* delayed discovery rule does not apply. Fla. Stat. Ann. § 95.11(3)(a), (o), (p); *see, e.g., W.D. v. Archdiocese of Miami*, 197 So. 3d 584 (Fla. 4th DCA 2016) (where plaintiff alleged repressed memories of abuse by three priests in 1986, dismissal of claims against Archdiocese and affiliated school for negligence, respondeat superior, and intentional infliction of emotional distress upheld on statute of limitations grounds).

In 2010, the Florida legislature eliminated the statute of limitations for claims related to sexual battery of a victim who was under the age of 16 at the time of the act. This provision was not retroactive and only applied to “any such action other than one which would have been time barred on or before July 1, 2010.” *See W.D. v. Archdiocese of Miami, supra* (“plaintiff’s claims ... against the Archdiocese and school were time-barred before July 1, 2010, since neither the delayed discovery doctrine nor section 95.11(7) applied to the accrual of those claims”).

Legislative History: Section 7 of Fla. Stat. Ann. § 95.11 became effective on April 8, 1992 and is not retroactive.

Other: Not applicable.

Pending Legislation: None.

GEORGIA

Summary of Current Law:	<p>Effective July 1, 2015, for any civil action for recovery of damages as a result of childhood sexual abuse committed prior to July 1, 2015, the victim must commence the action before attaining age 23. For any civil action based on sexual abuse committed on or after July 1, 2015, the victim must commence the action before attaining age 23 or within two years from the date the victim knew, or had reason to know, of such abuse and that such abuse resulted in injury to the victim, as established by competent medical or psychological evidence. If the action is commenced after the victim attains age 23 but within two years from the date the victim knew or should have known of the abuse, the court will make a pretrial finding of when the discovery of the alleged abuse occurred. Ga. Code Ann. § 9-3-33.1(b)(2).</p> <p>Under the 2015 statute, actions may also be brought against entities, where the perpetrator was a volunteer or employee, and where either (1) the entity owed a duty of care to the victim or (2) the perpetrator and the victim were engaged in an activity over which the entity had control. If the action is brought before the victim attains the age of 23, the entity may be found liable “only if by a preponderance of the evidence there is a finding of negligence on the part of such entity.” Ga. Code Ann. § 93-3-33.1(c)(2). If the action is brought after the victim attains the age of 23, but within two years from the date the victim knew or should have known of the abuse, the entity may be found liable “only if by a preponderance of the evidence there is a finding that there was gross negligence on the part of such entity, that the entity knew or should have known of the alleged conduct giving rise to the civil action and such entity failed to take remedial action.” Ga. Code Ann. § 93-3-33.1(c)(3).</p> <p>Effective July 1, 2015, the Georgia legislature opened a two-year window for bringing civil claims by “plaintiffs of any age who were time barred from filing a civil action for injuries resulting from childhood sexual abuse due to the expiration of the statute of limitations in effect on June 30, 2015.” Ga. Code Ann. § 93-3-33.1(d). The reviver does not apply to: (1) claims litigated to finality prior to July 1, 2015; (2) settlements where the plaintiff was represented by counsel admitted in Georgia; and, (3) claims against entities.</p>
Legislative History:	<p>Prior to July 1, 2015, the limitations period was 5 years from age 18. Ga. Code Ann. § 9-3-33.1(b) (enacted in 1992 with no retroactive effect).</p> <p>Prior to 1992, actions based on childhood sexual abuse were subject to the 2-year limitations period for personal injury actions. Ga. Code Ann. § 9-33-33.1</p>
Other:	<p>The common-law discovery rule does not apply to claims of childhood sexual abuse. <i>M.H.D. v. Westminster Schools</i>, 172 F.3d 797, 804 (11th Cir. 1999).</p> <p><i>Canton Textile Mills, Inc. v. Lathem</i>, 253 Ga. 102 (1984) (Interpreting Georgia’s constitution as prohibiting retroactive legislation).</p>
Pending Legislation:	<p>H.B. 2, which would extend Georgia’s reviver window for an additional two years, was prefiled in Georgia’s House of Representatives for the 2017 legislative session, which runs from January 9, 2017 to March 24, 2017. The bill appears to be alive at the time of this report.</p>

HAWAII

Summary of Current Law:	<p>The limitations period is the later of: (a) 8 years from age 18; or (b) 3 years from when the victim discovers, or reasonably should have discovered, that psychological injury or illness was caused by the childhood sexual abuse. Haw. Rev. Stat. § 657-1.8(a).</p> <p>A certificate of merit must be filed by the plaintiff’s attorney and include a notarized statement by a mental health professional that provides the facts and opinions relied upon to conclude that there is a reasonable basis to believe that the plaintiff was subject to one or more acts that resulted in physical, psychological, or other injury. Haw. Rev. Stat. § 657-1.8(a).</p> <p>In 2012 the Hawaii Legislature passed a statute reviving time-barred claims for a two year window from April 24, 2012 to April 24, 2014. This window applied to any legal entity, except “the State or its political subdivisions.” Haw. Rev. Stat. § 657-1.8(b). In 2014, the window was extended for two more years, from April 24, 2014 to April 24, 2016. The 2014 extension bill also applied to claims against public entities. 2014 Hawaii Laws Act 112 (S.B. 2687).</p> <p>Haw. Rev. Stat. § 657-1.8 has been upheld as constitutional. <i>Roe v. Ram</i>, 14-00270027, 2014 WL 4276647 (D. Haw. 2014).</p>
Legislative History:	<p>Prior to April 24, 2012, an action based on childhood sexual abuse was subject to the 2-year limitations period for personal injury actions. The discovery rule also applied to claims of childhood sexual abuse. <i>Dulea v. Dappen</i>, 924 P.2d 196, 201-202 (Haw. 1996), <i>abrogated on other grounds</i>, <i>Hac v. University of Hawaii</i>, 73 P.3d 46 (Haw. 2003); Haw. Rev. Stat. § 657-7.</p>
Other:	<p>Haw. Rev. Stat. § 657-1.8(b) permits a plaintiff to file suit against a legal entity that employed the perpetrator and owed a duty of reasonable care to the victim when the sexual abuse occurred. See <i>Wada v. Aloha King, LLC</i>, 154 F. Supp.3d 981 (D. Haw. 2015) (Hawaii statute allowed a plaintiff to recover damages against a legal entity when a sexual abuser and a minor were engaged in activity over which the legal entity had a degree of responsibility or control).</p>
Pending Legislation:	<p>S.B. 3053 was introduced in the Hawaii Legislature on January 27, 2016 to extend the revive window for another two years, from April 24, 2016 to April 24, 2018. The bill was referred to Committee and appears to have failed.</p>

IDAHO

Summary of Current Law: The limitations period for a civil action against the perpetrator is the later of: (a) 5 years from age 18; or (b) 5 years from when the victim discovers, or reasonably should have discovered that the act, abuse, or exploitation and the injuries were caused by the childhood sexual abuse. Idaho Code Ann. § 6-1704(1).

Idaho Code Ann. § 6-1704 became effective on July 1, 1989 and is not retroactive; the discovery language was added effective July 1, 2007 and is not retroactive.

Legislative History: Prior to July 1, 1989, an action against the perpetrator was subject to the 2-year limitations period for personal injury actions. Idaho Code Ann. § 5-219(4).

Other: The 5-year limitations period does not apply to actions against third parties. *Osborn v. Salinas*, 958 P.2d 1142, 1144 (Idaho 1998); rather, the 2-year limitations period for personal injury actions applies. *Id.*; Idaho Code Ann. § 5-219(4).

The discovery rule did not apply to toll the limitations period in a claim against a Diocese where the victim alleged repressed memories of the childhood sexual abuse as there was objectively ascertainable damage at the time of the abuse. *Bonner v. Roman Catholic Diocese of Boise*, 913 P.2d 567, 568 (Idaho 1995).

Statute governing tort actions in child abuse cases created new cause of action that expanded scope of liability for injury to a child beyond that of traditional tort liability, and, thus, statute could not be retroactively applied to conduct of scout leader that gave rise to cause of action before statute was enacted, regardless of when victim's cause of action would have accrued under amended statutory scheme. *Doe v. Boy Scouts of America*, 2009, 224 P.3d 494, 148 Idaho 427, rehearing denied (case refers to July 1, 2007 amendments to Idaho Code Sections 6-1607;6-1701, and 6-1704).

Pending Legislation: None.

ILLINOIS

Summary of Current Law: An action based on childhood sexual abuse may be commenced at any time. 735 Ill. Comp. Stat. Ann. 5/13-202.2.

The current version of 735 Ill. Comp. Stat. Ann. 5/13-202.2 became effective January 1, 2014 and is not retroactive.

Legislative History: From 2011 to 2014, § 5/13-202.2 required that an action be commenced within the later of: (a) 20 years from age 18 or (b) 20 years from the date victim discovers or through the use of reasonable diligence should discover both (i) that the act of childhood sexual abuse occurred and (ii) that the injury was caused by the childhood sexual abuse. 2010 Ill. Legis. Serv. P.A. 96-1093.

From 2003 to 2011, § 5/13-202.2 required that an action be commenced within the later of: (a) 10 years from age 18; or (b) 5 years from the date victim discovers or through the use of reasonable diligence should discover both (i) that the act of childhood sexual abuse occurred and (ii) that the injury was caused by the childhood sexual abuse. The limitations period was also tolled during the “time period when the person abused is subject to threats, intimidation, manipulation, or fraud perpetrated by the abuser or by any person acting in the interest of the abuser.” IL LEGIS 93-356 (2003). The statute did not apply retroactively to revive claims barred by previous limitations periods. *Doe A v. Diocese of Dallas*, 234 Ill.2d 393, 410 (Ill. 2009).

From 1991 to 2003, § 5/13-202.2 required that an action be commenced within 2 years from the date the victim discovered or through the use of reasonable diligence should have discovered that the act of childhood sexual abuse occurred and that the injury was caused by the childhood sexual abuse. This version of the statute had a 12-year statute of repose so that if a claimant was 30 years old before January 1, 1991 (i.e. had a date of birth of January 1, 1961 or earlier), his claim would be barred. A statute of repose provides a date certain upon which an action no longer exists, regardless of whether the action has accrued by that date. It is a stricter deadline than a statute of limitations because the limitations period cannot be extended by application of the discovery rule or tolled based on fraudulent concealment or a disability. There was an amendment to the 1991 Statute in 1994 that repealed the 12-year statute of repose. In *M.E.H. v. L. H.*, 177 Ill. 2d 207, 218-219 (Ill. 1997), the Illinois Supreme Court held that the repeal of the statutory repose period could not operate to revive claims that were barred under the prior version of the statute.

Prior to 1991, an action based on childhood sexual abuse was subject to the 2-year limitations period for personal injury actions. 735 ILCS § 5/13-202. An action was tolled until age 18. 735 ILCS § 5/13-211. The common law discovery rule also applied. The rule states that a cause of action accrues when the person knows or reasonably should know of an injury and that the injury was wrongfully caused. *Clay v. Kuhl*, 189 Ill. 2d 603, 610 (Ill. 2000).

Other: Under the common law discovery rule, the limitations period does not begin to run until (i) the party knows or reasonably should know of an injury and (ii) that the injury was wrongfully caused.

Other (cont): The Illinois Supreme Court has held the limitations period begins to run from the time the victim is aware the childhood sexual abuse occurred, even if the full extent of the victim's injuries is unknown. *See e.g., Clay v. Kuhl*, 727 N.E.2d 217 (Ill. 2000) (finding claims untimely under common law discovery rule where claimant was aware of the abuse); *Parks v. Kownacki*, 737 N.E.2d 287, 294 (Ill. 2000) (finding limitations period begins to run when the claimant is aware that injuries were sustained and that they were wrongfully caused).

Appellate court decisions have found that in limited circumstances, fraudulent concealment may toll the statute of limitations. *See Wisniewski v. Diocese of Belleville*, 406 Ill. App. 3d 1119, 1151 (5th Dist. 2011) (finding fraudulent concealment prevented victim from discovering he sustained an injury from abuse that occurred in the 1970s until 2002 and this tolled the statute of repose); *see also John Doe 2 v. Boy Scouts of America*, No. 1-15-2406, 2016 WL 5689056 (Ill. App. 1st, September 30, 2016) (holding, on interlocutory review, that despite claimant's knowledge, prior to the running of the statute of limitations, that he had been physically injured by sexual abuse and his abuser had been arrested and tried for similar crimes, it was not possible to rule out as a matter of law that the fraudulent-concealment statute might permit claimant to maintain suit).

For actions prior to the 2003 version of § 5/13-202.2, which codified tolling of the limitations period based on fraudulent concealment, courts recognized that fraudulent concealment may toll the limitations period if the defendant actively misleads the plaintiff. *Clay v. Kuhl*, 727 N.E.2d 217 (Ill. 2000) (finding fraudulent concealment did not apply to toll the limitations period).

**Pending
Legislation:** None.

INDIANA

Summary of Current Law:	<p>The limitations period is the later of: (a) 7 years from when the cause of action accrues; or (b) 4 years after the injured person leaves the dependency of the abuser. Ind. Code Ann. § 34-11-2-4 and Ind. Code Ann. § 1-1-4-5(24) (tolling limitations period for minors).</p> <p>Ind. Code Ann. § 34-11-2-4 became effective on July 1, 2013 and is not retroactive. 2013 Ind. Legis. P.L. 44-213.</p>
Legislative History:	<p>Prior to July 1, 2013, an action based on childhood abuse was subject to the 2-year limitations period for personal injury actions. Ind. Code Ann. § 34-11-2-4(1). Specifically, the limitations period was the later of: (a) 2 years from age 18; or (b) 2 years from the date of discovery. <i>Id.</i></p>
Other:	<p>The discovery rule applies to claims that the victim repressed memories of the childhood sexual abuse. <i>Doe v. Shults-Lewis Child and Family Services, Inc.</i>, 718 N.E.2d 738, 746 (Ind. 1999). Proof of the repressed memory requires expert testimony. <i>Id.</i></p> <p>Fraudulent concealment may toll the limitations period. <i>Doe v. Shults-Lewis Child and Family Services, Inc.</i>, 718 N.E.2d 738 (Ind. 1999). To invoke the doctrine, the victim must show that the lack of discovery resulted from a concealment caused by the defendant's deception or breach of duty. <i>Id.</i></p>
Pending Legislation:	<p>None.</p>

IOWA

Summary of Current Law:	<p>The limitations period for sexual abuse of a "child" is 4 years from discovery of both the injury and the causal relationship between the injury and the childhood sexual abuse. Iowa Code Ann. § 614.8A. The discovery rule applies to claims that the victim repressed memories of the childhood sexual abuse. <i>Claus v. Whyle</i>, 526 N.W.2d 519, 524 (Iowa 1994).</p> <p>Iowa Code Ann. § 614.8A was approved on May 6, 1990 and is not retroactive.</p>
Legislative History:	<p>Prior to May 6, 1990, an action based on childhood abuse was subject to the 2-year limitations period for personal injury actions. Iowa Code Ann. § 614.1(2). The discovery rule applies to these pre-1990 claims. <i>Frideres v. Schiltz</i>, 113 F.3d 897, 898-899 (8th Cir. 1998). The limitations period is tolled until the victim knew or should have known of both the fact of the injury and its cause. <i>Id.</i> at 899.</p>
Other:	<p>A "child" is an individual under the age of 14. <i>Doe v. Cherwitz</i>, 518 N.W.2d 362, 364 (Iowa 1994).</p> <p>An action based on childhood sexual abuse suffered from acts by a counselor, therapist or school employee must be brought 5 years from the date the victim was last treated or enrolled in the school. Iowa Code Ann. § 614.1(12).</p>
Pending Legislation:	<p>In 2014 and 2015 similar bills were introduced (S.F. 2109 in 2014 and S.F. 447 in 2015) which would have extended the limitations period to 25 years from age 18. However, both bills ultimately failed. There does not appear to be a comparable bill pending in 2017.</p>

KANSAS

Summary of Current Law:	<p>The limitations period is the later of: (a) 3 years from age 18; or (b) 3 years from the date the victim discovers or reasonably should have discovered that the injury or illness was caused by the childhood sexual abuse. Kan. Stat. Ann. § 60-523(a).</p> <p>Kan. Stat. Ann. § 60-523 became effective on July 1, 1992 and is retroactive. Kan. Stat. Ann. § 60-523(d). The statute applies to any action commenced on or after July, 1 1992 including any action barred by an applicable limitations period prior to July 1, 1992. § 60-523(d).</p> <p>The statute, however, does not revive claims that were barred by the 8-year statute of repose that applies to actions commenced by minors. A statute of repose provides a date certain upon which an action no longer exists, regardless of whether the action has accrued by that date. It is a stricter deadline than a statute of limitations because the limitations period cannot be extended by application of the discovery rule or tolled based on fraudulent concealment or a disability, etc. <i>Ripley v. Tolbert</i>, 260 Kan. 491, 499, 502 (Kan. 1996); Kan. Stat. Ann. §60-515(a).</p>
Legislative History:	<p>Prior to 1992, an action based on childhood sexual abuse was subject to the 2-year limitations period applicable to personal injury actions. Kan. Stat. Code Ann. § 60-513.</p>
Other:	<p>Not Applicable.</p>
Pending Legislation:	<p>None.</p>

KENTUCKY

Summary of Current Law:	<p>The limitations period is the later of: (a) 5 years from age 18; (b) 5 years from the date of the last act of childhood sexual abuse; or (c) 5 years from the date the victim knew, or should have known, of the act of childhood sexual abuse. Ky. Rev. Stat. Ann. § 413.249.</p> <p>Ky. Rev. Stat. Ann. § 413.249 became effective July 15, 1998 and is retroactive.</p>
Legislative History:	<p>Prior to 1998, an action based on childhood sexual abuse was subject to the 1-year limitations period applicable to personal injury actions. Ky. Rev. Stat. Ann. § 413.140.</p>
Other:	<p>The limitations period is not tolled for fraudulent concealment when there is no evidence of concealment or knowledge of the perpetrator's abuse. <i>McGinnis v. Roman Catholic Diocese of Covington</i>, No. 02-CA-001610, 2003 WL 22111094, *2 (Ky. Ct. App. Sept. 12, 2003). Evidence of concealment does toll the limitations period. <i>Roman Diocese of Covington v. Secter</i>, 966 S.W.2d 286, 290 (Ky. Ct. App. 1998).</p> <p>An action is not tolled based on a claim that victim delayed discovery of the abuse due to post-traumatic stress disorder. <i>Rigazio v. Archdiocese of Louisville</i>, 853 S.W.2d 295, 296-297 (Ky. Ct. App. 1993) (finding post-traumatic stress disorder does not necessarily cause a person to be of "unsound mind").</p>
Pending Legislation:	<p>None.</p>

LOUISIANA

Summary of Current Law:	<p>The limitations period is 10 years from age 21. La. Rev. Stat. Ann. § 9:2800.9(A).</p> <p>Plaintiffs over the age of 21 at the time of the action must file a certificate of merit executed by plaintiff's attorney and a licensed mental health practitioner. La. Rev. Stat. Ann. § 9:2800.9(B).</p> <p>La. Rev. Stat. Ann. § 9:2800.9 was approved on June 21, 1993 and is not retroactive. <i>G.B.F. v. Keys</i>, 687 So. 2d 632, 634 (La. Ct. App. 1997).</p>
Legislative History:	<p>Prior to 1992, an action based on childhood sexual abuse was subject to the 1-year limitations for torts. La Rev. Stat. Ann. § 3492.</p>
Other:	<p>The discovery rule applies to claims of childhood sexual abuse. A victim has one year from the date the victim discovers, or should have discovered the facts upon which his cause of action is based to file the action. <i>Wimberly v. Gatch</i>, 635 So. 2d 206, 216-17 (La. 1994). The limitations period is tolled when the defendant prevents the victim from filing suit. <i>Wimberly v. Gatch</i>, 635 So. 2d at 216-17.</p> <p>Louisiana allows Direct Action Lawsuits against Insurers.</p>
Pending Legislation:	<p>None.</p>

MAINE

Summary of Current Law: An action based on childhood sexual abuse may be commenced at any time. Me. Rev. Stat. Ann. tit. 14, § 752-C.

It is unclear if the Maine statute is applicable to both perpetrators and non-perpetrators as the issue has been certified to the Maine Supreme Judicial Court, without a response. *Allen v. Forest*, 257 F. Supp. 2d 276, 280 (D. Me. 2003).

The current version of Me. Rev. Stat. Ann. tit. 14, § 752-C was approved on April 7, 2000 and is not retroactive. See *Guptill v. Martin*, 228 F.R.D. 62, 66 (Bankr. D. Me. 2005) (holding that “[a]lthough later amendments to Section 752–C allow persons who were victims of sexual abuse as minors to pursue their claims at any time, the Legislature clearly did not intend for this expanded statute of limitations to revive claims that were already ‘barred by the previous statute of limitations in force’ prior to the amendments”).

Legislative History: From 1991 to 2000, § 752-C required an action to be brought within the later of: (a) 12 years after the action accrued; or (b) 6 years from the date the victim discovered or should have discovered the harm. The statute was not retroactive.

From 1989 to 1991, § 752-C required an action to be brought within the later of: (a) 6 years after the action accrued or (b) 3 years from the date the victim discovered or should have discovered the harm.

From 1985 to 1989, § 752-C required an action to be brought within 6 years after the action accrued.

Prior to 1985, an action based on childhood sexual abuse was subject to the 6-year limitations period applicable to torts. Me. Rev. Stat. Ann. tit. 14, § 752. There was no recognized discovery rule. *McAfee v. Cole*, 637 A.2d 463, 466 (Me. 1994).

Other: Not Applicable.

Pending Legislation: None.

MARYLAND

Summary of Current Law:	The limitations period is 7 years from age 18. Md. Code Ann., Cts. & Jud. Proc. § 5-117. Md. Code Ann., Cts. & Jud. Proc. § 5-117 became effective on October 1, 2003 and is not retroactive.
Legislative History:	Prior to 2003, an action based on childhood sexual abuse was subject to the 3-year limitations period for torts. Md. Code Ann., Cts. & Jud. Proc. § 5-101.
Other:	A claim that the victim repressed memories of the childhood sexual abuse does not “activate” the discovery rule. <i>Doe v. Maskell</i> , 679 A.2d 1087, 1092 (Md. 1996). The court determined that a claim of “repression” was the same as if the victim “forgot” the childhood sexual abuse and therefore the victim had “slumbered on his rights” in not bringing the action within the limitations period. <i>Id.</i> at 1090-1091. See also <i>Scarborough v. Altstatt</i> , 140 A.3d 497 (Md. App. 2016) (rejecting childhood sexual abuse claimant’s attempt to introduce new scientific evidence relating to dissociative amnesia, and recognizing the continuing validity of <i>Maskell</i>).
Pending Legislation:	Bills were introduced in both chambers of the General Assembly during the 2016 Session which would have extended the time for filing civil claims arising out of childhood sexual abuse to twenty years after the victim reached the age of majority. S.B. 69, 2016 Leg., 436th Session; 1215, 2016 Leg., 436th Session. Neither bill proceeded to a floor vote.

MASSACHUSETTS

Summary of Current Law: Tort claims against perpetrators must be commenced within 35 years of the acts alleged to have caused an injury or condition or within 7 years of the time the victim discovers or reasonably should have discovered that an emotional or psychological injury or condition was caused by said act, whichever period expires later. The statute is tolled until a child reaches the age of 18. Mass. Gen. Laws ch. 260 § 4C.

The provisions applicable to claims against perpetrators are retroactive. The amending statute specifies that it “shall apply regardless of when any such action or claim shall have accrued or been filed and regardless of whether it may have lapsed or otherwise be barred by time under the law of the commonwealth.” 2014 Mass. Legis. Serv. Ch. 145, § 8. See *Sliney v. Previte*, 41 N.E.3d 732 (Mass. 2015) (upholding constitutionality of retroactive application of amended 35-year statute of limitations as applied to perpetrator).

Tort claims alleging negligent supervision must be commenced within the later to expire of: (i) 35 years of the acts alleged to have caused an injury or condition to such minor; or (ii) 7 years of the time the victim discovered or reasonably should have discovered that an emotional or psychological injury or condition was caused by such act. The statute is tolled until a child reaches the age of 18. Mass. Gen. Laws ch. 260 § 4C ½.

The provisions applicable to negligent supervision are only retroactive as to subsection (ii) (claims involving delayed discovery). See *Embry v. President and Fellows of Harvard College*, 32 Mass. L. Rptr. 430 (Mass. Super. 2014) (allowing claimant to pursue motion for relief from final judgment, where his negligent supervision claims had been dismissed as untimely after running of prior 3-year discovery rule, but before running of new 7-year discovery rule).

Legislative History: The Massachusetts Legislature amended Section 4C of the limitations chapter of the Massachusetts Code effective June 25, 2014.

Prior to June, 2014, the limitations period was the later of: (a) 3 years from age 18; or (b) 3 years from when the victim discovered, or reasonably should have discovered that an emotional or psychological injury or condition was caused by the childhood sexual abuse. Mass. Gen. Laws ch. 260, § 4C (approved on December 17, 1993, not retroactive).

Prior to 1993, an action based on childhood sexual abuse was subject to the general 3-year limitations period for torts. Mass Gen Laws ch. 260, § 2A.

Other: The discovery rule applies to tort actions against perpetrators and non-perpetrators. *Phinney v. Morgan*, 654 N.E.2d 77, 79 (Mass. App. Ct. 1995).

The standard for discovery is whether and when an objectively reasonable person causally connects his emotional/psychological injury or condition with the childhood sexual abuse. *Clark v. Edison*, 881 F. Supp. 2d 192, 199 (D. Mass. 2012).

Pending Legislation: None.

MICHIGAN

Summary of Current Law: Michigan has not enacted a statute of limitations specific to childhood sexual abuse. Instead, the limitations period for assault/battery or negligence actions applies. The limitations period for assault/battery is 2 years from the injurious act. The limitations period for negligence is the later of: (a) 1 year from age 18; or (b) 3 years from the injurious act. Mich. Comp. Laws Ann. § 600.5805(2) and (10); Mich. Comp. Laws Ann. § 600.5821(1); and Mich. Comp. Laws Ann. § 600.5851 (tolling limitations period for minors).

Legislative History: Mich. Comp. Laws Ann. § 600.5805 was enacted on October 1, 1986 and is not retroactive.

Other: A cause of action accrues at the time the wrong upon which the claim is based was committed, regardless of the time when the damage results. Michigan Comp. Laws Ann. § 600.5827.

The Supreme Court of Michigan found that the common-law discovery rule did not apply to toll the limitations period based on a claim that the victim repressed memories of the childhood sexual. Such memory repression also did not make the victim “insane” for purposes of tolling the limitations period due to a “disability.” *Lemmerman v. Fealk*, 534 N.W.2d 695, 702 (Mich. 1995). See also *West v. City of Garden City*, 14–CV–10121, 2015 WL 4477858 (E. D. Mich., July 22, 2015) (refusing to credit plaintiff’s claims of insanity).

Fraudulent concealment is difficult to apply to actions against third parties as the plaintiff must show the defendant concealed, by an affirmative act or misrepresentation, the existence of plaintiff’s claim. Generally, plaintiff is on notice that a claim exists when the childhood sexual abuse occurs. *Doe v. Roman Catholic Archbishop of Detroit*, 692 N.W.2d 398 (Mich. Ct. App. 2004). Mere silence regarding a perpetrator’s background does not constitute fraudulent concealment. *Id.*

Pending Legislation: None.

MINNESOTA

Summary of Current Law: An action for childhood sexual abuse that occurred when the individual was under 18 may be commenced at any time. Minn. Stat. Ann. § 541.073(2)(a).

An action must be brought within 6 years from the sexual abuse if the sexual abuse occurred when the individual was 18 or older. Minn. Stat. Ann. § 541.073(2)(a).

A claim based on vicarious liability/ respondeat superior must be brought within 6 years of the alleged abuse. If the individual was under age 18 at the time of the alleged abuse, the claim must be brought before age 24. Minn. Stat. Ann. § 541.073(4)

The current version of Minn. Stat. Ann. § 541.073 became effective on May 25, 2013 and contained a 3-year window that allowed the filing of time-barred claims from May 25, 2013/2016. Minn Stat. Ann. § 541.073(b). This did not include nuisance claims or actions seeking injunctive relief. *Doe I v. Archdiocese of St. Paul*, No.62-13-4075, 2013 WL 7218911, *5 (Minn. Dist. Ct. Dec. 10, 2013).

The revival of time-barred claims only applies to claims for abuse of individuals under the age of 18; the window legislation did not apply to vicarious liability or respondeat superior claims, but did apply to negligence claims. Minn. Stat. Ann. § 541.073(b).

Legislative History: From May 1991 to May 25, 2013, § 541.073 required an action to be brought within 6 years from the time the victim knew or had reason to know that the injury was caused by the childhood sexual abuse. The amendment also provided a 1-year window to revive previously time-barred claims for intentional torts, allowing plaintiffs to commence a cause of action until August 1, 1992. *H.D. v. White*, 483 N.W.2d 501, 505 (Minn. App. 1992). An action was tolled until age 18. Minn. Stat. Ann. § 541.15(a)(1).

From May 1989 to May 1991, § 541.073 required an action to be commenced within 2 years for intentional torts and 6 years from the time the victim knew or had reason to know that the injury was caused by the childhood sexual abuse for negligence actions. The statute also provided a 1-year window to revive claims barred by prior limitations periods. A plaintiff had to prove by a preponderance of the evidence that he consulted an attorney within 2 years of the time the plaintiff knew or had reason to know that the injury was caused by the childhood sexual abuse. An action was tolled until age 18. Minn. Stat. Ann. § 541.15(a)(1).

Prior to May 1989, an action based on childhood sexual abuse was subject to the 2-year limitations period for personal injury actions. Minn Stat. Ann. § 541.07. An action was tolled until age 18. Minn. Stat. Ann. § 541.15(a)(1).

Other: The delayed discovery rule in the pre-2013 versions of the statute did not apply to vicarious liability claims. *Oelschlager v. Magnuson*, 528 N.W.2d 895, 901 (Minn. Ct. App. 1995); *M.L. v. Magnuson*, 531 N.W.2d 849, 854 (Minn. Ct. App. 1995).

Other (cont): The delayed discovery rule in the pre-2013 versions of the statute applied to individuals who were psychologically, physically, or emotionally unable to recognize that they have been abused. *W.J.L. v. Bugge*, 573 N.W.2d 677, 681-82 (Minn. 1998); *see also Bertram v. Poole*, 597 N.W.2d 309, 313 (Minn. Ct. App. 1999) (discovery rule applied to claims involving repressed memories). Generally, this was when the victim reached age 18. *D.M.S. v. Barber*, 645 N.W.2d 383, 390 (Minn. 2002).

To determine whether a victim had reason to know of sexual abuse for limitations purposes, the objective standard applied to determine whether a reasonable person in the victim's situation should have known of the abuse. *ABC v. Archdiocese of St. Paul and Minneapolis*, 513 N.W.2d 482, 486 (Minn. App. 1994).

Fraudulent concealment may toll the limitations period. *Doe v. Order of St. Benedict*, 836 F.Supp. 2d 872, 876 (D. Minn. 2011). Fraudulent concealment must be an intentional and affirmative concealment of the cause of action. *Dymit v. Independent School District*, No. 03-02663, 2004 WL 2857375, *5 (Minn. Ct. App. Dec. 14, 2004). The plaintiff must also show that the concealment could not have been discovered with reasonable diligence. *Id.*

Pending Legislation: None.

MISSISSIPPI

Summary of Current Law: Mississippi has not enacted a limitations period specific to childhood sexual abuse. Instead, the catch-all limitations period for non-specified actions applies, which is the later of: (a) 3 years from age 18; or (b) 3 years from the injurious act. Miss. Code Ann. § 15-1-49; Miss. Code Ann. 15-1-59 (tolling limitations period for minors).

Legislative History: Miss. Code Ann. § 15-1-49 was enacted in 1989 and is not retroactive.

Other: The discovery rule does not apply to sexual abuse claims as there is no latent injury. *Doe v. Roman Catholic Diocese of Jackson*, 947 So. 2d 983, 986 (Miss. Ct. App. 2006).

Fraudulent concealment may toll the limitations period if the plaintiff shows that the defendant affirmatively acted to prevent claimant's discovery of a claim. *Doe v. Roman Catholic Diocese of Jackson*, 947 So. 2d at 986-87.

Pending Legislation: None.

MISSOURI

Summary of Current Law:	<p>The limitations period is the later of: (a) 10 years from age 21; or (b) 3 years from when the victim discovered, or reasonably should have discovered that the injury or illness was caused by the childhood sexual abuse. Mo. Ann. Stat. § 537.046(2).</p> <p>The current version of Mo. Ann. Stat. § 537.046 became effective on August 28, 2004 and is retroactive. The limitations period applies to any action that would have been barred by a previous limitations period prior to that date. Mo. Ann. Stat. § 537.046(3).</p>
Legislative History:	<p>From 1990 to 2004, § 537.046 required an action to be brought within: (a) 5 years from age 18 or (b) 3 years from the date the victim discovers or reasonably should have discovered that the injury or illness was caused by the childhood sexual abuse, whichever occurs later.</p> <p>Prior to 1990, an action based on childhood sexual abuse was subject to the 5-year limitations period for personal injury actions. Mo. Ann. Stat. § 516.120.</p>
Other:	<p>The 8th Circuit has determined that §537.046 does not apply to non-perpetrators. <i>Walker v. Barrett</i>, 650 F.3d 1198, 1208-1209 (8th Cir. 2011).</p> <p>The discovery rule applies to claims involving repressed memories, when the repression occurred before the victim had notice both that the wrong occurred and that substantial damage had resulted. <i>Powel v. Chaminade College Preparatory, Inc., et al.</i>, 197 S.W.3d 576, 584-585 (Mo. 2006). The limitations period begins to run when the victim for the first time would have “reason to question” the defendant’s conduct and would have information sufficient “to place a reasonably prudent person on notice of a potentially actionable injury.” <i>Id.</i></p>
Pending Legislation:	<p>H.B. 247, which would have removed the limitations period for any action for damages based on childhood sexual abuse, was introduced on January 22, 2013 and passed by the Missouri House of Representatives on February 25, 2013. No action has occurred since then, and it does not appear that there are any similar bills currently pending.</p>

MONTANA

Summary of Current Law:	<p>The limitations period is the later of: (a) 3 years from the last act of childhood sexual abuse; or (b) 3 years from when the victim discovers or should have discovered that the injury was caused by the act of childhood sexual abuse. Mont. Code Ann. § 27-2-216(1) and (2).</p> <p>Mont. Code Ann. § 27-2-216 became effective on October 1, 1989 and is retroactive. The Supreme Court affirmed the retroactivity of the statute in <i>Cosgriffe v. Cosgriffe</i>, 864 P.2d 776, 779 (Mont. 1993).</p>
Legislative History:	<p>Prior to 1989, an action based on childhood sexual abuse was subject to the 3-year limitations period for personal injury actions. Mont. Code Ann. § 27-2-204.</p>
Other:	<p>The discovery rule applies to negligence claims involving childhood sexual abuse. <i>Werre v. David</i>, 913 P.2d 625, 632 (Mont. 1996).</p>
Pending Legislation:	<p>None.</p>

NEBRASKA

Summary of Current Law:	The limitations period is 12 years from age 21. Neb. Rev. Stat. § 25-228. Neb. Rev. Stat. § 25-228 became effective on July 19, 2012 and is not retroactive.
Legislative History:	Prior to 2012, an action based on childhood sexual abuse was subject to the 4-year limitations for personal injury actions. Neb. Rev. Stat. § 25-207. The limitations period was suspended until the victim reached age 21. Neb. Rev. Stat. § 25-213.
Other:	The discovery rule applies to claims of childhood sexual abuse. An action does not accrue until the victim discovers, or through the exercise of reasonable diligence, should have discovered the existence of the injury. <i>Teater v. State of Nebraska</i> , 559 N.W.2d 758 (Neb. 1997).
Pending Legislation:	None.

NEVADA

Summary of Current Law:	The limitations period is the later of: (a) 10 years from age 18; or (b) 10 years from when the victim discovers or reasonably should have discovered that his or her injury was caused by the childhood sexual abuse. Nev. Rev. Stat. Ann. § 11.215. Nev. Rev. Stat. Ann. § 11.215 became effective in 1991 and is not retroactive.
Legislative History:	Prior to 1991, an action based on childhood sexual abuse was subject to the 2-year limitations period for personal injury actions. Nev. Rev. Stat. Ann. § 11.190(4)(e).
Other:	Not applicable.
Pending Legislation:	None.

NEW HAMPSHIRE

Summary of Current Law: The limitations period is the later of: (a) 12 years from age 18; or (b) 3 years from when the victim discovers, or in the exercise of reasonable diligence, should have discovered the injury and its causal relationship to the childhood sexual abuse. N.H. Rev. Stat. Ann. § 508:4-g.

The current version of N.H. Rev. Stat. Ann. § 508:4-g became effective on January 1, 2009 and is not retroactive.

Legislative History: From July 22, 2005 to January 1, 2009, § 508:4-g required an action to be brought within the later of: (a) 7 years from age 18; or (b) 3 years from the time the victim discovers, or in the exercise of reasonable diligence, should have discovered both the injury and its causal relationship to the act complained of. *Michaud v. McAnaney*, No. 06-cv-408, 2007 WL 2790672, *1-2 (D. N.H. Sept. 25, 2007).

From July 1, 1986 to July 22, 2005, an action based on childhood sexual abuse was subject to the limitations period for personal injury actions, which was 3 years from the time the plaintiff discovers, or in the exercise of reasonable diligence, should have discovered both the injury and its causal relationship to the act complained of. *Conrad v. Hazen*, 665 A.2d 372, 374 (N.H. 1995); N.H. Rev. Stat. Ann. § 508:4.

Prior to July 1, 1986, an action based on childhood sexual abuse was subject to the 6-year limitations period for personal injury actions. *Conrad v. Hazen*, 665 A.2d 372, 374 (N.H. 1995); N.H. Rev. Stat. Ann. § 508:4. Separately, the common law discovery rule applied to delay the accrual of the cause of action until the plaintiff discovers or in the exercise of reasonable diligence, should have discovered both the fact of the injury and its cause. *Id.*

Other: Not Applicable.

Pending Legislation: None.

NEW JERSEY

Summary of Current Law: The limitations period is 2 years from reasonable discovery of the injury and its causal relationship to the act of childhood sexual abuse. N.J. Stat. Ann. § 2A:61B-1(b).

The limitations period may be tolled due to the victim’s mental state, duress by the defendant, or any other equitable grounds. Such a finding can only be made after the court holds a plenary hearing (a *Lopez* hearing, after *Lopez v. Swyer*, 300 A.2d 563 (N.J. 1973)). The court will hear all credible evidence and the Rules of Evidence do not apply, except Rule 403 or claims of privilege. The court may order an independent psychiatric evaluation of the victim. N.J. Stat. Ann. § 2A:61B-1(c).

N.J. Stat. Ann. § 2A:61B-1 was approved on September 24, 1992 and is not retroactive. NJ LEGIS 109(1992).

Legislative History: Prior to September 24, 1992, an action based on childhood sexual abuse was subject to the 2-year limitations period applicable to personal injury actions. N.J. Stat. Ann. § 2A:14-2.

Other: A county is a “person” and is subject to liability under § 2A:61B-1. *J.H. v. Mercer County Youth Detention Center*, 930 A.2d 1223, 1228-1229 (N.J. Super. Ct. App. Div. 2007).

The discovery rule may apply to a claim that the victim repressed memories of the childhood sexual abuse. *Bryson v. Diocese of Camden*, 909 F. Supp 2d 364, 372 (D. N.J. 2012). The applicability of the discovery rule to a repressed memory claim is subject to a *Lopez* hearing. *Id.*

An objective standard for discovery is used and applies the perspective of a reasonable person who was subjected to childhood sexual abuse. *R.L. v. Voytac*, 971 A.2d 1074, 1084 (N.J. 2009).

A claim of duress requires analysis under subjective and objective standards. *Smith et al. v. Kelly et al.*, 343 N.J. Super. 480, 500-501 (N.J. Super. Ct. App. Div. 2001). To prevail and toll the limitations period, a plaintiff must show that the defendant actually deprived plaintiff of his freedom of will to file the lawsuit in a timely matter and the duress must have risen to a level that a reasonable person in the plaintiff’s situation would have been unable to resist. *Id.*

Pending Legislation: The New Jersey legislature has rejected multiple attempts to amend the New Jersey childhood sexual abuse statute of limitations dating back to the 2012-2013 legislative session. In the Spring of 2016, two bills (S280 and A865) died after being referred to Committee. The most recent proposed amendments would have removed the statute of limitations for civil actions stemming from childhood sexual abuse going forward, but did not include revival provisions applicable to previously-lapsed claims.

NEW MEXICO

Summary of Current Law: The limitations period is the later of: (a) age 24; or (b) 3 years from when the victim knew or had reason to know of the childhood sexual abuse and that the abuse resulted in an injury to the person, as established by competent medical or psychological testimony. N.M. Stat. Ann. § 37-1-30(A).

The current version of N.M. Stat. Ann. § 37-1-30 became effective on June 16, 1995. N.M. Stat. Ann. § 37-1-30 applies to actions not barred by a previous limitations period but not yet filed as of the effective date of the statute. *Grygorwicz v. Trujillo*, 140 N.M. 129, 135 (N.M. Ct. App. 2006).

Legislative History: From July 1, 1993 to June 16, 1995, § 37-1-30(A) included a provision that allowed a victim to bring an action 3 years from the date that the victim began receiving treatment from a licensed, competent medical practitioner for the purpose of treating repressed memories. This provision was removed in the 1995 version of the statute.

Prior to July 1, 1993, an action based on childhood sexual abuse was subject to the 3 year limitations period for personal injury actions. N.M. Stat. Ann. § 37-1-8.

Other: A jury may have to determine the date when the victim knew or should have known about the abuse and the resulting injury. *Kevin J. v. Sager*, 999 P.2d 1026 (N.M. Ct. App. 1999).

Pending Legislation: None.

NEW YORK

Summary of Current Law: The limitations period for a civil action against a perpetrator is 5 years from age 18. The 5-year limitations period may be extended if the perpetrator is criminally convicted. N.Y.C.P.L.R. 213-c; N.Y.C.P.L.R. 213-b. N.Y.C.P.L.R. 213-c became effective on June 23, 2006 and is not retroactive.

The limitations period for a civil action against a perpetrator's employer or actions based on personal injury is 3 years from age 18. N.Y.C.P.L.R. 214(5); *Green v. Emmanuel African M.E. Church*, 278 A.D.2d 132, 132-133 (N.Y. App. Div. 2000). N.Y.C.P.L.R. 214 became effective in 1962 and is not retroactive.

Legislative History: Prior to the enactment of N.Y.C.P.L.R. 213-c, an action based on childhood sexual abuse was subject to the 1-year limitations period for intentional torts against a perpetrator. *Green v. Emmanuel African M.E. Church*, 278 A.D.2d 132, 132-133 (N.Y. App. Div. 2000).

Other: The discovery rule does not apply in sexual abuse cases. *Matter of N.M. v. Westchester County Health Care Corp.*, 10 A.D.3d 421, 422 (N.Y. App. Div. 2004). The limitations period begins when the sexual abuse occurs (except the limitations period is tolled for minors until age 18). *Id.*

The limitations period is tolled if the defendant actively prevents the victim from asserting a cause of action by use of deception, concealment, threats or other misconduct. *Doe v. Roe*, No. 001, 2004 WL 2963908 (N.Y. Sup. Ct. Dec. 17, 2004). The victim must demonstrate that he or she instituted the action within a reasonable time after the facts giving rise to the estoppel have ceased to be operational. *Id.*; see also *Zimmerman v. Poly Prep County Day School*, 888 F. Supp. 2d 317, 333-334 (E.D.N.Y. 2012) (claims against perpetrator's employer not barred because school may have made fraudulent misrepresentations on which the victims relied in deciding not to file suit previously).

Pending Legislation: Between 2006 and 2016, New York Assembly Member Margaret Markey unsuccessfully introduced multiple bills (known as the "Child Victims Act") to amend or entirely remove New York's childhood sexual abuse statute of limitations. Markey recently lost her seat in the Assembly, and State Senator Brad Hoylman (D-27) has reintroduced the Child Victims Act for 2017 as S7296. In addition, Assembly Member Linda Rosenthal (D-Manhattan) has announced her intention to pick up the bill in the lower House. The current Child Victims Act would remove the statute of limitations going forward, and would open a one-year window for litigation of previously time-barred claims. The bill would also provide for equal treatment of claims against public and private institutions. Governor Cuomo has announced that passage of the Child Victims Act would be a legislative priority for 2017.

In October, 2016, the Archdiocese of New York began implementing a Reconciliation and Compensation Program, by which it has offered monetary compensation to time-barred victims of Archdiocesan clergy abuse in exchange for a release of liability. As of January 2017, approximately 65 claims have reportedly been processed, but no settlement amounts have been made public.

NORTH CAROLINA

Summary of Current Law:	North Carolina has not enacted a statute of limitations specific to childhood sexual abuse. Instead, the limitations period for personal injury actions applies, which is the later of: (a) 3 years from age 18; or (b) 3 years from when the bodily harm becomes apparent or ought reasonably to have become apparent; however, an action may not be brought more than 10 years from the last act. N.C. Gen. Stat. Ann. § 1-52(16); N.C. Gen Stat. Ann. § 1-17(a)(1) (tolling limitations period for minors).
Legislative History:	N.C. Gen. Stat. Ann. § 1-52 became effective 1945; Section (16) dates back to at least to 1991.
Other:	The discovery rule applies to claims that a victim repressed memories of the childhood sexual abuse. <i>Leonard v. England</i> , 445 S.E.2d 50, 52 (N.C. Ct. App. 1994).
Pending Legislation:	None.

NORTH DAKOTA

Summary of Current Law:	The limitations period is 10 years from when the victim knew or reasonably should have known that a potential claim exists resulting from the alleged childhood sexual abuse. N.D. Cent. Code. § 28-01-25.1. N.D. Cent. Code. § 28-01-25.1 became effective on August 1, 2011 and is not retroactive.
Legislative History:	Prior to August 1, 2011, an action based on childhood sexual abuse was subject to the 6-year limitations period for personal injury actions. N.D. Cent. Code. § 28-01-16(5). As originally passed, N.D. Cent. Code § 28-01-25.1 contained a 7-year limitations period; this was amended to 10 years, effective August 1, 2015.
Other:	Not Applicable.
Pending Legislation:	None.

OHIO

Summary of Current Law:	<p>The limitations period is 12 years from age 18. Ohio Rev. Code Ann. § 2305.111(C).</p> <p>If the defendant has fraudulently concealed from the victim the facts that form the basis of the claim, the limitations period is tolled until the time the victim discovers or in the exercise of due diligence should have discovered those facts. Ohio Rev. Code Ann. § 2305.111(C).</p> <p>Ohio Rev. Code Ann. § 2305.111 became effective on August 3, 2006. The statute applies to all civil actions that have never been filed and for which the limitations period applicable to such civil action had not expired as of August 3, 2006.</p>
Legislative History:	<p>Prior to August 3, 2006, an action based on childhood sexual abuse was subject to the 2-year limitations period for personal injury actions. Ohio Rev. Code Ann. § 2305.10.</p>
Other:	<p>With the enactment of the 2006 version of the statute, the discovery rule no longer applies to claims of repressed memories. <i>Pratte v. Stewart</i>, 929 N.E.2d 415 (Ohio 2010), <i>abrogating Ault v. Jasko</i>, 637 N.E.2d 870 (Ohio 1994). This is because the 2006 version of the statute contains a tolling provision based on fraudulent concealment but does not contain a tolling provision based on repressed memories. That omission demonstrates the legislature did not intend for claims of repressed memories to toll the limitations period. <i>Id.</i> at 484.</p>
Pending Legislation:	<p>None.</p>

OKLAHOMA

Summary of Current Law:	<p>The limitations period is the later of: (a) 2 years from age 18; (b) 2 years from the last act of childhood sexual abuse; or (c) 2 years from when the victim discovered or reasonably should have discovered that the injury or condition was caused by the act or that the act caused the injury for which the claim is brought. Okla. Stat. Ann. § 95(A)(6).</p> <p>Okla. Stat. Ann. § 95(A)(6) became effective on September 1, 1992 and is not retroactive.</p>
Legislative History:	<p>Prior to September 1, 1992, an action based on childhood sexual abuse was subject to the 2-year limitations period for personal injury actions. Okla. Stat. Ann. § 95(A)(3).</p>
Other:	<p>The discovery rule may apply to claims that the victim repressed memories of the sexual abuse. <i>Weathers. v. Fulgenzi</i>, 884 P.2d 538, 541-542 (Okla. 1994).</p>
Pending Legislation:	<p>None.</p>

OREGON

Summary of Current Law: The limitations period for sexual abuse occurring before a victim's 18th birthday is the later of: (a) age 40; or, (b) 5 years from the date when the victim discovers, or with the exercise of reasonable care should have discovered, the causal connection between the injury and the sexual abuse. Or. Rev. Stat. § 12.117(1).

The current version of Or. Rev. Stat. § 12.117 became effective on January 1, 2010 and is not retroactive.

Legislative History: From October 3, 1989 to January 1, 2010, § 12.117 required an action be brought within the later of: (a) 6 years from age 18; or (b) 3 years from the date the injured person discovers or in the exercise of reasonable care should have discovered the injury or the casual connection between the childhood sexual abuse and the injury. No action could be commenced after age 40. The statute was retroactive except as to any judgments that had been entered prior to the effective date.

Prior to October 3, 1989, an action based on childhood sexual abuse was subject to the 2-year limitations period for personal injury actions. Or. Rev. Stat. §12.110(1).

Other: Not Applicable.

Pending Legislation: None.

PENNSYLVANIA

Summary of Current Law: The limitations period is 12 years from age 18. 42 Pa. Cons. Stat. Ann. § 5533(b)(2)(i). This law became effective on August 27, 2002 and is not retroactive.

Legislative History: Prior to August 27, 2002, an action based on childhood sexual abuse was subject to the 2-year limitations period applicable to personal injury actions. 42 Pa. Cons. Stat. Ann. § 5524.

Other: The discovery rule does not apply to claims that the victim repressed memories of the childhood sexual abuse. *Dalrymple v. Brown*, 701 A.2d 164, 168 (Pa. 1997). The court stated that a repressed memory claim does not fit the objective standard required by the discovery rule as the court only has the “ ‘memories’ of the plaintiff to rely upon in determining that an actual injury occurred.” *Id.* at 170.

The discovery rule did not apply to toll the limitations period in an action against a Diocese, where plaintiffs argued that they only recently realized that the Diocese was a possible cause of their injury. The court rejected this argument and stated that the discovery rule did not toll the limitations period because the childhood sexual abuse was always known to plaintiffs, and the injury at issue was the childhood sexual abuse, not the alleged cover-up by the Diocese. *Meehan v. Archdiocese of Philadelphia*, 870 A.2d 912, 919 (Pa. Super. Ct. 2005); *see also Doe v. East Hills Moravian Church*, No. 12-5823, 2013 WL 5050593 (E.D. Pa. Sept. 13, 2013).

Fraudulent concealment does not toll the limitations period unless the defendants affirmatively mislead plaintiffs; mere silence is not enough. *Meehan*, 870 A.2d 912 at 922.

Pending Legislation: Several statute of limitations reform bills have been introduced in Pennsylvania since 2015. The most controversial was H.B. 1947, introduced in April 2016, which proposed to extend the statute of limitations for claims of childhood sexual abuse, including those against any individual who conspired with the perpetrator to commit the abuse and against individuals who had knowledge of the abuse or who failed to prevent further abuse by failing to report the abuse to authorities. HB 1947 would have allowed victims to bring claims against public institutions, which are currently protected by sovereign immunity. An early version of the Bill, which included a retroactive provision that would have revived claims barred prior to the effective date of the legislation, passed in the House of Representatives. The Senate voted in favor of an amended version of HB 1947 that removed the controversial retroactive provision, citing conflicts with Pennsylvania’s state constitution. The House Rules Committee did not act on the Senate-amended version of the Bill before the end of the legislative session.

It is anticipated that limitations legislation will be introduced in 2017. There is public support for windows legislation due to the Penn State child sexual abuse scandal and grand jury investigations of 6 of the 8 Pennsylvania Dioceses of alleged cover-ups of childhood sexual abuse. Newly elected Attorney General Bruce Beemer, victims’ rights groups, and trial lawyers have been vocal in their support of windows legislation.

RHODE ISLAND

Summary of Current Law: The limitations period for an action against the perpetrator is the later of: (a) 7 years from the last abusive act; or (b) 7 years from when the victim discovered or reasonably should have discovered that the injury or condition was caused by the sexual abuse. R.I. Gen. Laws § 9-1-51(a); R.I. Gen. Laws § 9-1-19 (tolling limitations period for minors). “Child” means a person under the age of eighteen (18) years. R.I. Gen. Laws § 9-1-51(d). The current version of R.I. Gen. Laws § 9-1-51 was approved on July 26, 1993 and is not retroactive.

The limitations period for an action against a non-perpetrator is 3 years from the act of negligence. *Ryan v. Roman Catholic Bishop of Providence*, 941 A.2d 174, 181 (R.I. 2008); R.I. Gen. Laws § 9-1-14 (personal injury) (enacted in 1971). The limitations period is tolled until age 18. R.I. Gen. Laws 9-1-19.

Legislative History: From 1992 to 1993, § 9-1-51 required an action to be brought within: (a) 3 years from the abusive act; or (b) 3 years from when the victim discovered or reasonably should have discovered that the injury or condition was caused by the sexual abuse, whichever occurs later.

Prior to 1992, an action based on childhood sexual abuse was subject to the 3-year limitations period for personal injury actions. *Smith v. O’Connell*, 997 F. Supp. 226, 232 (D.R.I. 1998); R.I. Gen. Laws § 9-1-14.

Other: A claim that a victim repressed memories of the childhood sexual abuse may toll the limitations period while a victim is of “unsound mind.” *Kelly v. Marcantonio*, 678 A.2d 873, 879 (R.I. 1996); R.I. Gen. Laws § 9-1-19. To be of “unsound mind” means an individual is incompetent or incapable of managing everyday affairs. *Smith v. O’Connell*, 997 F. Supp. 226, 236 (D.R.I. 1998). An evidentiary hearing is required. *Kelly v. Marcantonio*, 678 A.2d 873, 879 (R.I. 1996).

Pending Legislation: None.

SOUTH CAROLINA

Summary of Current Law: The limitations period is the later of: (a) 6 years from age 21; or (b) 3 years from when the victim discovers the injury and the causal relationship between the injury and the childhood sexual abuse. S.C. Code Ann. § 15-3-555.

S.C. Code Ann. § 15-3-555 became effective on August 31, 2001 and is not retroactive. *Doe v. Crooks*, 613 S.E.2d 536, 538 (S.C. 2005) (a newly enacted statute of limitations cannot operate to revive an action for which the limitations period had already expired as it would violate the Due Process clause of the South Carolina Constitution).

Legislative History: Prior to August 31, 2001, an action based on childhood sexual abuse was subject to the limitations period for personal injury actions. That limitations period is the later of: (a) 3 years from the injury; or (b) 3 years from when the person knew or by the exercise of reasonable diligence should have known that he had a cause of action. S.C. Code Ann. § 15-3-530(5).

Other: The discovery rule applies to claims that a victim repressed memories of the childhood sexual abuse. The limitations period begins to run on the date a reasonable person in the victim's circumstances would no longer be repressing memories of the abuse, and the resurfacing memories would have put a reasonable person on sufficient notice. *Moriarty v. Garden Sanctuary Church of God*, 534 S.E.2d 672, 676 (S.C. 2000). A repressed memory claim must be corroborated with independent verifiable, objective evidence including expert testimony to prove both the abuse and the repressed memory. *Id.* at 679-680.

Pending Legislation: None.

SOUTH DAKOTA

Summary of Current Law: The limitations period is the later of: (a) 3 years from age 18; (b) 3 years from the last act of childhood sexual abuse; or (c) 3 years from when the victim discovered or reasonably should have discovered that the injury or condition was caused by the childhood sexual abuse. S.D. Codified Laws § 26-10-25; S.D. Codified Laws § 15-2-22 (tolling limitations period for minors).

A victim who has reached the age of 40 may only recover damages against the perpetrator. S.D. Codified Laws § 26-10-25 (added in 2010, SL 2010 ch. 141 § 1). In *Bernie v. Blue Cloud Abbey*, 821 N.W. 2d 224 (S.D. 2012), the South Dakota Supreme Court examined the “predicate question” of “whether the extended statute of limitations even applies to causes of action against non-perpetrators of childhood sexual abuse,” holding that it does not.

S.D. Codified Laws § 26-10-25 was approved on February 28, 1991. The statute applies retroactively and may revive time-barred claims. *Stratmeyer v. Stratmeyer*, 567 N.W.2d 220, 224 (S.D. 1997), *overruling Koenig v. Lambert*, 527 N.W.2d 903 (S.D. 1995).

Legislative History: Prior to February 28, 1991, an action based on childhood sexual abuse was subject to the 3-year limitations period for personal injury actions. S.D. Codified Laws § 15-2-14.

Other: Not applicable.

Pending Legislation: None.

TENNESSEE

Summary of Current Law: A civil action for an injury or illness based on sexual abuse that occurred when the injured person was a minor, but was not discovered at the time of the abuse, shall be brought within three (3) years from the time of discovery of the abuse by the injured person. Tenn. Code Ann. § 28-3-116(b).

“Discovery” means when the injured person becomes aware that the injury or illness was caused by child sexual abuse. Discovery that the injury or illness was caused by child sexual abuse shall not be deemed to have occurred solely by virtue of the injured person’s awareness, knowledge, or memory of the acts of abuse. Tenn. Code Ann. § 28-3-116(a)(2).

Victims are not required to prove that they repressed the memory of the abuse. Tenn. Code Ann. § 28-3-116(c)(2). In no event shall an action under this section be brought against the alleged perpetrator of the child sexual abuse or against the estate of such alleged perpetrator after the perpetrator’s death later than seven (7) years from the date the child becomes eighteen (18) years of age. If the action is brought more than one (1) year from the date the injured person attains the age of majority, the injured person must offer admissible and credible evidence corroborating the claim of abuse by the alleged perpetrator. Tenn. Code Ann. § 28-3-116(e).

Legislative History: Prior to 2016, Tennessee had not enacted a statute of limitations specific to childhood sexual abuse. Instead, the limitations period for an action based on personal injury was applicable, which was the later of: (a) 1 year from age 18; or (b) 1 year from the date of injury. Tenn. Code Ann. § 28-3-104; Tenn. Code Ann. § 28-1-106 (tolling limitations period for minors). Tenn. Code Ann. § 28-3-104 was enacted in 1967.

Tenn. Code Ann. § 28-3-116 came into effect on April 7, 2016.

Other: The common law discovery rule states that the cause of action accrues and the limitations period begins to run when the injury is discovered, or in the exercise of due care and diligence, the plaintiff should have discovered that he or she has a right of action. *Potts v. Celotex Corp.*, 796 S.W.2d 678, 680 (Tenn. 1990).

In a case decided prior to the 2016 limitations legislation, the Tennessee Supreme Court held that tolling of the limitations period is strictly construed to the period when the victim had no knowledge that the wrong had occurred. *Hunter v. Brown*, 955 S.W.2d 49, 51 (Tenn. 1997). The court declined to address the applicability of repressed memory to sexual abuse cases and left the issue for “another day.” *Id.*

Pending Legislation: None.

TEXAS

Summary of Current Law: Personal injury claims arising from childhood sexual abuse must be brought within 15 years after the cause of action accrues if the injury arises as a result of sexual assault of a child, aggravated sexual assault of a child, continuous sexual abuse of a young child or children, certain sexual trafficking of a child, compelling prostitution by a child, or indecency with a child. Tex. Civ. Prac. & Rem. Code Ann. § 16.0045(a). The accrual of such causes of action is tolled up to and including a claimant's 18th birthday. Tex. Civ. Prac. & Rem. Code Ann. § 16.001 (tolling limitations period for minors).

Section 16.0045(a) became effective September 1, 2015. 2015 Tex. Sess. Law Serv. Ch. 918 (H.B. 189) (Vernon's). A cause of action that accrued before the September 1, 2015 effective date is subject to the statute of limitations in effect at the time of the abuse.

Legislative History: From September 1, 2007 to September 1, 2015, the limitations period was the later of: (a) 5 years from age 18; or (b) 5 years after the last act of childhood sexual abuse. Tex. Civ. Prac. & Rem. Code Ann. § 16.0045. Tex. Civ. Prac. & Rem. Code Ann. § 16.001 (tolling limitations for minors).

Prior to September 1, 2007, there was no separate limitations period for childhood sexual abuse, and such actions were subject to the general personal injury 2-year limitations period.

Other: As of January, 2017, the Texas appellate courts have not examined the new 15-year statute of limitations. Under a previous version of the statute, a Texas appellate court found that the 5-year limitations period applied to negligence actions against a Diocese, rather than the 2-year limitations period applicable to general personal injury actions. *Stephanie M. v. Coptic Orthodox Patriarchate Diocese of the Southern United States*, 362 S.W.3d 656, 660 (Tex. App. 2011).

The discovery rule only applies in cases where the extent of the injury is inherently undiscoverable and the evidence of injury is objectively verifiable. *Doe v. Linam*, 225 F. Supp. 2d 731, 735-36 (S.D. Tex. 2002). An injury is inherently undiscoverable if it is by nature unlikely to be discovered within the prescribed limitations period despite due diligence. *Id.* at 7. Objectively verifiable evidence in the context of sexual abuse includes a criminal conviction, confession, contemporaneous records, medical records, photographs. *Id.* at 15. Expert testimony might provide objectively verifiable evidence but the application is fact specific. *Id.*

Fraudulent concealment may toll the limitations period. To prove fraudulent concealment, the plaintiff must demonstrate that the defendant had (1) actual knowledge that a wrong occurred, (2) a duty to disclose the wrong, and (3) a fixed purpose to conceal the wrong. *Doe v. Roman Catholic Archdiocese of Galveston-Houston ex rel. Dinardo*, 362 S.W.3d 803, 810 (Tex. App. 2012).

Pending Legislation: None.

UTAH

Summary of Current Law: Civil actions may be brought against the perpetrator(s) of child sex abuse at any time. Utah Code Ann. § 78B-2-308(3)(a).

Civil actions may be brought against non-perpetrators for intentional or negligent childhood sexual abuse within the later of (1) 4 years after turning 18; or (2) 4 years of discovery. Utah Code Ann. § 78B-2-308(3)(b). 2015 Utah Laws Ch. 82 (H.B. 277) (effective March 23, 2015).

Civil actions against perpetrators of sexual abuse that were time-barred as of July 1, 2016, may be brought within 35 years of the victim's 18th birthday, or within three years of May 10, 2016 (May 9, 2019). Utah Code Ann. § 78B-2-308(7). Civil actions may not be brought for (a) claims litigated to finality prior to July 1, 2016, except that actions terminated on statute of limitations grounds are not to be considered finally litigated; (b) claims where the victim(s) entered into written settlement agreements, unless such an agreement was the product of fraud, duress, or unconscionability, with a rebuttable presumption that a settlement agreement signed by a claimant not represented by counsel was the result of fraud, duress, or unconscionability. Utah Code Ann. § 78B-2-308(8). 2016 Utah Laws Ch. 379 (H.B. 279) (effective May 10, 2016).

Legislative History: Prior to 2015, the limitations period was the later of: (a) 4 years from age 18; or (b) 4 years from when the victim discovers the childhood sexual abuse; the date of discovery may have been the last act of childhood sexual abuse. Utah Code Ann. § 78B-2-308 (became effective in 1992 and was not retroactive).

Prior to 1992, an action based on childhood sexual abuse was subject to the 3-year limitations period for personal injury actions. Utah Code Ann. § 78B-2-305. The common law discovery rule also applies. *Olsen v. Hooley*, 865 P.2d 1345, 1348 (Utah 1993).

Other: Under the discovery rule, a party's cause of action accrues when the plaintiff learns of or in the exercise of reasonable diligence should have learned of, the facts that give rise to the cause of action. *Olsen v. Hooley*, 865 P.2d 1345 (Utah 1993) (discovery rule applies to claims involving repressed memories).

Pending Legislation: None.

VERMONT

Summary of Current Law:	The limitations period is the later of: (a) 6 years from age 18; (b) 6 years after the last act of childhood sexual abuse; or (c) 6 years from when the victim discovered that the injury or condition was caused by the childhood sexual abuse. Vt. Stat. Ann. tit. 12, § 522; Vt. Stat. Ann. tit. 12, § 551 (tolling limitations period for minors). Vt. Stat. Ann. tit. 12, § 522 became effective in 1989 and is not retroactive.
Legislative History:	Prior to 1989, an action based on childhood sexual abuse was subject to the 3-year limitations period for personal injury actions. The cause of action accrued on the date of discovery of the injury. Vt. Stat. Ann. tit. 12 § 512.
Other:	The limitations period does not begin to run until the victim has actual knowledge of the childhood sexual abuse. <i>Barquin v. Roman Catholic Diocese of Burlington, Vermont, Inc.</i> , 839 F. Supp. 275, 279-280 (D. Vt. 1993).
Pending Legislation:	None.

VIRGINIA

Summary of Current Law:	The limitations period is the later of: (a) 20 years from age 18; or (b) 20 years from the date a medical professional first communicated to the injured person that the injuries were caused by the childhood sexual abuse. Va. Code Ann. § 8.01-249(6); Va. Code Ann. § 8.01-243(D). The 20-year limitations period for childhood sexual abuse was approved March 26, 2011, through amendment of Va. Code Ann. § 8.01-243(D). The statute was originally enacted in 1991 and is not retroactive.
Legislative History:	From 1991 to 2011, § 8.01-249 required an action to be brought within: (a) 10 years from age 18; or (b) 10 years from the last act by the perpetrator, whichever occurs later. <i>Kopalchik v. Catholic Diocese of Richmond</i> , 645 S.E.2d 439, 440-441 (Va. 2007). Prior to 1991, an action based on childhood sexual abuse was subject to the 2-year limitations period for personal injury actions. Va. Code Ann. § 8.01-243(A).
Other:	Not Applicable.
Pending Legislation:	None.

WASHINGTON

Summary of Current Law:	The limitations period is the later of: (a) 3 years from age 18; (b) 3 years from the last act of childhood abuse; (c) 3 years from when the victim discovered or reasonably should have discovered that the injury or condition was caused by the childhood sexual abuse; or (d) 3 years from when the victim discovered that the childhood sexual abuse caused the injury for which the claim is brought. Wash. Rev. Code Ann. § 4.16.340 (which became effective on June 9, 1988 and is retroactive). WA LEGIS 144. There were revisions to the statute between 1988 and 1991. See generally <i>B.R. v. Horsley</i> , 345 P.3d 836 (Wash. App. 2015).
Legislative History:	Prior to 1988, an action based on childhood sexual abuse was subject to the general 3-year limitations period for personal injury actions. Wash. Rev. Code Ann. § 4.16.080(2).
Other:	The statute applies to negligence actions against non-perpetrators who are alleged to have failed to prevent the abuse. <i>C.J.C. v. Corporation of the Catholic Bishop of Yakima</i> , 985 P.2d 262, 270 (Wash. 1999).
Pending Legislation:	None.

WEST VIRGINIA

Summary of Current Law:	West Virginia first enacted a statute of limitations specific to childhood sexual abuse in June of 2016. Personal actions for damages resulting from sexual assault or sexual abuse of a person who was an infant at the time of the act or acts alleged, must be brought against the perpetrator of the sexual assault or abuse within 4 years after reaching the age of majority or within 4 years after discovery of the sexual assault or sexual abuse, whichever is longer. W. Va. Code Ann. § 55-2-15 (amended effective June 10, 2016).
Legislative History:	Prior to June 2016, the general limitations period for personal injury actions was applicable to childhood sexual abuse, which was: (a) 2 years from age 18; or (b) 2 years from the injurious act. W. Va. Code Ann. § 55-2-12; W. Va. Code Ann. § 55-2-15 (tolling limitations period for minors).
Other:	<p>The discovery rule applies to tort actions unless there is a clear statutory prohibition to its application. The limitations period begins to run when the plaintiff knows, or by the exercise of reasonable diligence, should know (1) that the plaintiff has been injured; (2) the identity of the entity that injured plaintiff; and (3) that the conduct of that entity has a causal relation to the injury." Syl. pt. 4, <i>Gaither v. City Hosp. Inc.</i>, 487 S.E.2d 901, 903 (W. Va. 1997).</p> <p>Claims of fraud or fraudulent concealment may toll the limitations period. Application of discovery rule does not require a showing by the plaintiff that some action by the defendant prevented the plaintiff from knowing of the wrong at the time of the injury. <i>Dunn v. Rockwell</i>, 225 W.Va. 43, 52 (W. Va. 2009) <i>overruling Cart v. Marcum</i>, 423 S.E.2d 644, (W. Va. 1992).</p>
Pending Legislation:	None.

WISCONSIN

Summary of Current Law:	An action must be filed before the victim attains age 35. Wis. Stat. Ann. § 893.587 (effective May 1, 2004).
Legislative History:	Prior to May 1, 2004, an action based on childhood sexual abuse was subject to the 3-year limitations period for personal injury actions. Wis. Stat. Ann. § 893.54.
Other:	<p>Actions for negligent retention and supervision against a diocese must be brought within 3 years of the date of the last incident of childhood sexual abuse. <i>John Doe 1 v. Archdiocese of Milwaukee</i>, 734 N.W.2d 827, 839 (Wis. 2007); <i>John BBB Doe v. Archdiocese of Milwaukee</i>, 565 N.W.2d 94, 106 (Wis. 1997); <i>Pritzlaff v. Archdiocese of Milwaukee</i>, 533 N.W.2d 780, 784 (Wis. 1995). An action is tolled until a victim reaches age 18. Wis. Stat. Ann. § 893.16.</p> <p>Fraudulent concealment may toll the limitations period. A claim for intentional misrepresentation requires proof that: (1) the defendant made a factual representation; (2) which was untrue; (3) the defendant either made the representation knowing it was untrue or made it recklessly without caring whether it was true or false; (4) the defendant made the representation with intent to defraud and to induce another to act upon it; and, (5) the plaintiff believed the statement to be true and relied on it to his/her detriment. <i>John Does 1, 2, 3 and Linneman v. Archdiocese of Milwaukee</i>, 303 Wis. 2d 34, 60-61 (Wis. 2007).</p>
Pending Legislation:	The most recent attempt to amend the childhood sexual abuse statute of limitations in Wisconsin was in 2013 (S.B. 225). The bill failed to pass the Senate on April 8, 2014. The bill would have removed the limitations period for actions based on childhood sexual abuse, and would have revived any cause of action that was barred by a prior limitations period for 2 years following the effective date of the bill.
<h3>WYOMING</h3>	
Summary of Current Law:	<p>The limitations period is the later of: (a) 8 years from age 18; or (b) 3 years after discovery. Wyo. Stat. Ann. § 1-3-105(b).</p> <p>Wyo. Stat. Ann. § 1-3-105 was approved March 15, 1993 and is not retroactive.</p>
Legislative History:	Prior to 1993, an action based on childhood sexual abuse was subject to the 4-year limitations period for personal injury actions. Wyo. Stat. Ann. § 1-3-105.
Other:	The term “discovery” used in Wyo. Stat. Ann. § 1-3-105(b) means that a limitations period does not begin to run until the victim discovered or in the exercise of reasonable diligence should have discovered the injury. <i>McCreary v. Weast</i> , 971 P.2d 974, 981 (Wyo. 1999).
Pending Legislation:	None.